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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,377	03/20/2002	Fabio Longoni	019B.0022.U1(US)	9743
29683 7590 01/02/2008 HARRINGTON & SMITH, PC 4 RESEARCH DRIVE SHELTON, CT 06484-6212			EXAMINER SOBUTKA, PHILIP	
			ART UNIT	PAPER NUMBER
			2618	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/980,377

**Applicant(s)**

LONGONI ET AL.

**Examiner**

Philip J. Sobutka

**Art Unit**

2618

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-6, 8-16, 19-26, 28, 71 and 89-99 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16, 19-26, 28, 71, 93, 94, 98 and 99 is/are allowed.
- 6) ☒ Claim(s) 2, 4, 5, 12-15, 92 and 95-97 is/are rejected.
- 7) ☒ Claim(s) 6 and 8-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/15/07</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. Claims 2,4,5,12-15, 92,95-97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szalajski et al (US 6,275,487) in view of Bark et al (US 2002/0077138) and in view of Derryberry et al (US 6,498,785).

Consider claims 92. Szalajski teaches a method of controlling power with which information is transmitted by a first station to a plurality of second stations on a common channel, different information being intended for different stations, said method comprising the step of transmitting said information in said common channel, wherein information intended for different second stations are transmitted at different power levels (Szalajski see col 2, line 56 – col 3, line 20).

Szalajski lacks a teaching of applying the common channel power control to a CDMA common channel. Bark teaches applying power control to a CDMA common channel (see for example paragraphs 7,11,36,39). Bark teaches that power control is particularly advantageous for CDMA system to reduce interference (see for example paragraph 7). It would have been obvious to one of ordinary skill in the art to modify Raitola to apply the power control to a CDMA common channel as taught by Bark in order to reduce interference.

Szalajski teaches everything claimed except for a controller controlling the information transmittal. Derryberry teaches a mobile communication system in which a radio network controller controls the power control of the system (Derryberry see fig 1, item 112). It would have been obvious to one of ordinary skill in the art to modify

Szalajski to use a controller to control the power in order to ensure uniform power control.

As to claims 2, Szalajski teaches the method as in claim 92, wherein the power level with which information is transmitted is selected in dependence on at least one of a parameter of the intended second station and the content of the information (see col 4, lines 27-53, col 6, lines 29-50).

As to claims 4, note that Szalajski's information is in the form of data packets (fig 1, col 5, lines 20-40).

As to claims 13,14, note that Szalajski's first station is a base station, and the second is a mobile station (Szalajski col 1, lines 5-30).

As to claims 15, note that Szalajski's common channel is a forward access channel (Szalajski see col 1, lines 5-66).

As to claims 95-97, note that Szalajski teaches the method being performed in a GSM cellular system which would include base stations, user terminals and a radio network controller (see for example column 1, lines 1-25).

Consider claims 5. Szalajski in view of Bark teaches everything claimed as shown above except for the information for a given second station including information identifying the given station. Derryberry teaches a mobile communication system with a shared forward channel in which information for a mobile station includes identifying data (Derryberry see especially col 3, lines 35-50). It would have been obvious to one of ordinary skill in the art to modify Szalajski to use the identifying information as taught

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by Derryberry in order to ensure that the information was received by the intended mobile.

Consider claim 12, Szalajski teaches everything claimed except for a controller controlling the information transmittal. Derryberry teaches a mobile communication system in which a radio network controller controls the power control of the system (Derryberry see fig 1, item 112). It would have been obvious to one of ordinary skill in the art to modify Szalajski to use a controller to control the power in order to ensure uniform power control.

***Claim Rejections - 35 USC § 103***

2. Claim 3, is rejected under 35 U.S.C. 103(a) as being unpatentable over Szalajski in view of Bark and in view of Nishino (US 6,347,083).

3. Consider claim 3. Szalajski in view of Bark teaches everything claimed as shown above except for the information being transmitted with a higher power based on importance of the information. Nishino teaches a power control arrangement in which information is transmitted with a higher power if the content of the information is important (Nishino col 2, lines 25-37). It would have been obvious to one of ordinary skill in the art to modify Szalajski to transmit information with a higher power based on importance as taught by Nishino in order to ensure that important transmissions were received.

***Allowable Subject Matter***

4. Claims 16,19-26,28,71, 93,94,98 and 99 are allowed

5. Claims 6,8-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Amendment***

6. Applicant's arguments with respect to claims 2-15,18-88,92,95-97 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case applicant has not addressed the combination of Szalajski in view of Bark.

***Conclusion***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J Sobutka whose telephone number is 571-272-7887. The examiner can normally be reached Monday through Friday from 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on 571-272-4711.

10. The central fax phone number for the Office is 571-273-8300.

Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number.

**CENTRALIZED DELIVERY POLICY:** For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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